

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MARGUERITE CARRUBBA,
Plaintiff,

VERSUS CIVIL ACTION NO: 1:07cv1238

HARRISON COUNTY, MISSISSIPPI,
by and through its Board of
Supervisors; HARRISON COUNTY
SHERIFF, George Payne;
WAYNE PAYNE; DIANE GATSON RILEY;
STEVE CAMPBELL; RICK GATSON;
RYAN TEEL; KARLE STOLZE;
WILLIAMS PRIEST; JAMES A.
GONDLES, JR; AMERICAN
CORRECTIONAL ASSOCIATION;
JOHN AND JANE DOES 1-3; HEALTH
ASSURANCE, LLC AND J.L. WHITE,
Defendants.

DEPOSITION OF MARGUERITE CARRUBBA

Taken at the offices of Brown Buchanan,
P.A., 796 Vieux Marche' Mall, Suite 1,
Biloxi, Mississippi, on Wednesday,
August 19, 2009, beginning at 9:48 a.m.

APPEARANCES:

MARK WATTS, ESQUIRE
PATRICK R. BUCHANAN, ESQUIRE
Brown Buchanan, P.A.
796 Vieux Marche' Mall, Suite 1
Biloxi, Mississippi 39530
ATTORNEYS FOR PLAINTIFF

ORIGINAL

SIMPSO

EXHIBIT

388-3130

tabbles

"B"

1 there till -- it's just an assumption.

2 MR. GEWIN:

3 Let me clarify it.

4 Q. You think you got to Boone's Tavern
5 around 3:00, correct?

6 A. Uh-huh.

7 Q. Were you drinking from 3:00 until you
8 had the wreck at around 7:00?

9 A. Not constantly.

10 Q. That wasn't my question. Were you
11 drinking alcohol?

12 A. I had alcoholic beverages.

13 Q. What type were you drinking that
14 morning?

15 A. Good Lord. I believe beer.

16 Q. Where had you been before you went to
17 Boone's at 3:00 in the morning?

18 A. Lookout 49.

19 Q. Okay. What time did you get to Lookout
20 49 and leave Lookout 49?

21 A. I'm not exactly sure.

22 Q. Did you have a meal there?

23 A. I don't believe I did.

24 Q. You just went to the bar?

25 A. Yes, sir.

1 Q. And this is the restaurant that's on
2 Highway 49?

3 A. Yes.

4 Q. In Orange Grove?

5 A. I guess that's Orange Grove. I'm not --

6 Q. Well, Highway 49 north?

7 A. Right.

8 Q. I believe it's still there today.

9 A. Lookout 49. I don't know.

10 Q. Is it near the Kmart on Highway 49?

11 A. Yes, yes.

12 Q. Do you remember what route you traveled?

13 Did you go down 49 to Highway 90 when you left
14 Lookout 49?

15 A. No.

16 Q. How did you get from Lookout 49 to
17 Boone's Tavern?

18 A. Interstate to Cowan-Lorraine.

19 Q. And where were you before you went to
20 Lookout 49?

21 A. On Courthouse Road, and I believe the
22 name of it is Cabana.

23 Q. Kind of like a little outdoor bar around
24 a pool?

25 A. Yes.

1 Q. When did you get there?

2 A. I really don't remember.

3 Q. Was it daylight or dark when you got to
4 Cabana's?

5 A. I'm not exactly sure. It might have
6 been like dusk.

7 Q. Tell me about the accident itself, the
8 motor vehicle accident that morning, what you
9 remember about it and how it happened.

10 A. I believe I was traveling -- well, I was
11 traveling north on Cowan-Lorraine. I thought the
12 light was green, and a van hit the left front of
13 my car.

14 Q. Was the light green? Did you have the
15 green light?

16 A. I couldn't tell you.

17 Q. Did you get a ticket for running a red
18 light?

19 A. I don't remember.

20 Q. Okay. Were you wearing your seat belt?

21 A. Oh, yes.

22 Q. Did the accident hurt you at all?

23 A. No, sir.

24 Q. Did the police offer to call an
25 ambulance?

1 A. No, sir.

2 Q. They didn't?

3 A. No.

4 Q. Okay. Did you ask them to?

5 A. Did I ask them to call an ambulance?

6 Q. Right.

7 A. No, sir.

8 Q. Do you claim you were hurt in that wreck
9 at all?

10 A. No, sir.

11 Q. Was it a severe impact or -- describe
12 it.

13 A. It messed up the car.

14 Q. On the driver's side?

15 A. Yes.

16 Q. Okay. What did you do after the
17 accident? Did you get out of the car?

18 A. I couldn't open the door.

19 Q. Did the impact occur on the door?

20 A. It was right in front of the door.

21 Q. Did your car move at all upon impact
22 with the other vehicle?

23 A. I'm not sure. I feel like it possibly
24 did, but I couldn't -- I couldn't say for sure.

25 Q. So do you know if that impact and the

1 the situation of your neck and back before this
2 accident?

3 A. Oh, yeah. Yes, sir.

4 Q. Okay. And you've had, like I said, neck
5 and back problems for years before this, correct?

6 A. Yes.

7 Q. All right. Back to the wreck, did you
8 resist giving the field sobriety test? Did the
9 officers have to talk you into doing the field
10 sobriety test?

11 A. I don't know.

12 Q. You don't recall?

13 A. If they talked me into it, no.

14 Q. Well, I'll ask you: Did you refuse or
15 resist taking it at first?

16 A. I don't know.

17 Q. Do you remember taking the test?

18 A. Some of it.

19 Q. Okay. Do you agree that you flunked the
20 test?

21 MR. WATTS:

22 Object to the form. You can answer it.

23 MR. GEWIN:

24 Let me correct it.

25 Q. Do you remember any particular task that

1 you had difficulty doing that they asked you to do
2 in the field sobriety test?

3 A. Yes.

4 Q. Okay. Which task did you have
5 difficulty with?

6 A. The alphabet.

7 Q. All right. But did you pass all the
8 others or did they just quit when you couldn't do
9 the alphabet?

10 A. I don't know.

11 Q. Did they have you blow in a machine
12 anywhere?

13 A. Yes.

14 Q. Do you know what it registered?

15 A. No.

16 Q. Was that at the scene or at the police
17 station?

18 A. I don't remember.

19 Q. Did you have any difficulty at the scene
20 when the officers put you in the police car to
21 transport you to the jail?

22 A. I don't know, other than I asked them
23 not to cuff me in the back, but I don't remember.

24 Q. Do you know if it's a usual policy to
25 handcuff the detainee's hands behind their back?

1 A. I guess not if -- because they -- I
2 guess not. I don't know what he wrote down.

3 Q. They did charge you with DUI, though,
4 right?

5 A. Yes.

6 Q. Okay. So what happened at the scene of
7 the accident? Were you handcuffed?

8 A. I believe I was.

9 Q. Hands behind your back?

10 A. I'm not exactly sure because he knew my
11 brother, and I believe I asked him not to cuff me
12 behind my back because it hurt.

13 Q. All right. And I think you told the
14 police you had neck and back problems at the
15 scene, didn't you?

16 A. Yes, yes.

17 Q. Okay. So you don't remember now whether
18 they handcuffed your hands in the front of you or
19 in back of you?

20 A. No, sir, I don't.

21 Q. Have you seen the video that was made
22 when you were brought in booking and when you left
23 booking?

24 A. Yes, a little while ago.

25 Q. When you looked at that video, did you

1 from back then or looking at the video, just tell
2 me what happened. You walk up to the counter, and
3 then what happened?

4 A. I remember the Gulfport police officer
5 was looking in my purse and saw some medication
6 and made a comment about that.

7 Q. What comment did the Gulfport cop make?

8 A. Look at all this stuff. And I told him
9 I had prescriptions for all of it. And then I
10 went and changed clothes. They took all my
11 things.

12 Q. Okay. But the Gulfport cop, I believe,
13 must have changed handcuffs off of you, right?

14 A. Yeah.

15 Q. They searched you as you were standing
16 there, just pat you down for weapons; is that
17 right?

18 A. Yes.

19 Q. Did you have to take your shoes off?

20 A. Yes.

21 Q. Did a female deputy take you into the
22 shower to change your clothes?

23 A. I believe she walked me to the door.

24 Q. Did you change clothes right away or did
25 they leave you in your civilian clothes for a

1 while?

2 A. Not once I went into that other room.

3 Q. So they pretty quick dressed you in the
4 jail clothes; is that right?

5 A. I don't know how quick.

6 Q. I guess we might see it here on the
7 video. A female deputy took you in. Did you have
8 any problems in that process, changing clothes?

9 A. I don't believe.

10 Q. So after you changed clothes, what
11 happened? The female deputy brought you out of
12 the shower?

13 A. I think I just walked out.

14 Q. Okay. And where did you walk to?

15 A. Just the counter and maybe to the wall.

16 Q. What you answered awhile ago brings up a
17 point. As we're here today, how many different
18 medications are you taking?

19 A. Several, seven to nine.

20 Q. When we take a break, if you would,
21 rather than us -- if you would, make a list, say
22 what the pill is and the size of the pill,
23 milligrams or whatever, and we'll make an exhibit
24 to your deposition so we don't have to go through
25 that.

1 come let me make a call, tap, tap, tap?

2 A. No.

3 Q. So you were not saying anything; you
4 were just tapping?

5 A. When somebody said something to me, I
6 said something.

7 Q. "Somebody" being a deputy?

8 A. Right.

9 Q. Okay. So did your tapping bring someone
10 to the window or to the door?

11 A. It got someone's attention.

12 Q. The tapping did?

13 A. Yes.

14 Q. Okay. And so they came to the window.
15 How thick is that window, could you tell?

16 A. I have no idea.

17 Q. It was a Plexiglas window?

18 A. I have no idea.

19 Q. So was it a male or female officer that
20 came to the window?

21 A. Just to the window? I don't believe
22 anyone just came to the window.

23 Q. Okay. So when you were tapping, you got
24 someone's attention?

25 A. Right, right. They yelled at me to

1 quit.

2 Q. From where? Could you see the person
3 who yelled at you?

4 A. Someone back here.

5 Q. Behind the booking counter?

6 A. Yes.

7 Q. What did they say?

8 A. What do you want.

9 Q. And they were yelling at you through
10 that window?

11 A. Yes.

12 Q. I guess you had to yell back so they
13 could hear you?

14 A. I want to make a phone call. I guess.

15 Q. There's no phone in that cell, is there,
16 or is there?

17 A. I'm not sure.

18 Q. Did you look for a phone in the cell?

19 A. I suppose I did. I don't know.

20 Q. Okay. What happened next?

21 A. I probably tapped on the window some
22 more.

23 Q. Still politely tapping or were you kind
24 of whamming it?

25 A. I don't recall whamming it.

1 Q. Okay. So what happened next? After
2 you're sitting on the bench with your hands
3 handcuffed behind your back in Cell 2, what's the
4 next thing that happened?

5 A. I got one of my hands out of the
6 handcuffs.

7 Q. Did you slide them under your back; is
8 that right, or did you just slip out of the
9 handcuffs?

10 A. I just slipped out of the handcuffs.

11 Q. Got one hand out?

12 A. Yes.

13 Q. Okay. Why did you do that?

14 A. Because it was hurting.

15 Q. Were the cuffs on too tight?

16 A. It was uncomfortable for my neck and
17 back.

18 Q. Tell me how you got -- do you remember
19 which hand it was?

20 A. No.

21 Q. I believe you complained of bruises on
22 your wrist. Did you have bruises on your wrist
23 after this incident?

24 A. Yes.

25 Q. Was it caused by you getting the

1 handcuff off?

2 A. Getting it off?

3 Q. Yes, ma'am.

4 A. No.

5 Q. It wasn't?

6 A. I don't believe.

7 Q. It wasn't difficult to get the handcuff
8 off?

9 A. I -- I don't know what you would call --
10 it was a little difficult.

11 Q. It was on there pretty good and you've
12 got to slide it off of your hand. Did that take
13 awhile?

14 A. Not too terribly long.

15 Q. How long did it take you to get that
16 cuff off?

17 A. I don't know. Maybe -- when I tried,
18 maybe about a minute or two.

19 Q. This is with your hands behind your
20 back, right?

21 A. Yes.

22 Q. And what did you do after you got the
23 cuff off?

24 A. I believe I paced and sat down.

25 Q. Did you tap on the window again?

1 been able to do that?

2 MR. WATTS:

3 Object to the form.

4 MR. BRENDDEL:

5 Q. Did you know you -- let me start all
6 over. I just jumbled that question real bad. Did
7 you have any reason to know that you could take
8 off that handcuff by any of the correctional
9 officers in the jail?

10 A. No, no.

11 Q. I believe I saw in the video, and
12 correct me if I'm wrong, you got up from the bench
13 after you removed the handcuff; is that correct?
14 Did you get up from the bench?

15 A. Once I was handcuffed to the bench, no.

16 Q. I'm asking about after you removed the
17 handcuff, did you actually get up from the bench?

18 A. Yes.

19 Q. And it looked like you walked to the
20 other side of the room?

21 A. Yes.

22 Q. Okay. I'm just curious, why did you
23 walk to the other side of the room?

24 A. I was going to ask if I could make a
25 phone call.

1 A. I don't remember.

2 Q. Did you yell or anything?

3 A. I don't remember.

4 Q. How long were you walking around with
5 your hands unhandcuffed?

6 A. I don't know.

7 Q. More than an hour?

8 A. I have -- I don't know.

9 Q. No idea?

10 A. (Nodding head negatively.)

11 Q. What's the next event that happened?

12 A. I remember the two male deputies came in
13 and cuffed me behind my back.

14 Q. For the second time?

15 A. And pulled my arms straight up behind
16 me, kicking my feet out from under me and slammed
17 me chin first into the concrete floor.

18 Q. When you say pulled your hands up behind
19 you, you mean behind your back?

20 A. Yes, and then pulled them up.

21 Q. Were they perturbed that you had taken
22 the handcuff off?

23 A. I suppose they were.

24 Q. You weren't supposed to take your
25 handcuff off, were you?

1 A. Evidently not.

2 Q. You didn't know that before this
3 happened, that that was not a wise thing to do?

4 MR. WATTS:

5 Object to the form.

6 MR. GEWIN:

7 Q. You can answer.

8 A. I guess.

9 Q. Did you see that event when you looked
10 at the video, what you just described, slamming to
11 the floor?

12 A. I couldn't see it.

13 Q. Could you see into that cell you were in
14 when you watched the video?

15 A. Yes.

16 Q. Okay. Two officers handcuffed you
17 behind your back. Did one officer grab your arms
18 up in the air behind you?

19 A. Yes.

20 Q. Which one did that?

21 A. I couldn't tell you.

22 Q. Where was the other officer?

23 A. I couldn't tell you that.

24 Q. You say someone kicked your feet out
25 from under you?

1 Q. Do they show a busted lip?

2 A. I think one of them does.

3 Q. Have you provided that to us?

4 A. I believe so. I think I gave all the
5 pictures to the attorneys.

6 Q. Does this photo show a knot on your
7 chin?

8 A. It looks like it to me.

9 Q. I see your chin. Circle the knot, if
10 you don't mind. Is it on the right or your left
11 side or in the middle?

12 A. I don't know. It looked kind of puffy
13 there, but I don't know. I can't tell because of
14 the graininess of the photo.

15 Q. Sort of like a driver's license picture?

16 A. It's not even that good.

17 Q. And one last thing. We've got records
18 from the mental health facility, the Gulf Coast
19 Mental Health. You've seen them for quite awhile;
20 is that correct?

21 A. Yes.

22 Q. And they sent us a listing of the
23 records. And we noticed that you've been a
24 patient there since '93, but they just gave us the
25 records for 2005 forward; are you aware of that?

1 MR. BRENDEL:

2 Y'all can hold onto it. I'm not going
3 to look at it right now.

4 (Exhibit 12 was marked.)

5 MR. BRENDEL:

6 Q. The placement of your cuffs, the only
7 thing you can remember is you telling Stolze and
8 Priest, I want to make a phone call, correct?

9 A. No. That's not true. I asked them to
10 please not cuff me behind my back.

11 Q. Okay. And did they say anything in
12 response to that?

13 A. Yes, but I don't remember what it was.

14 Q. All right. While you were alleging this
15 assault was occurring, do you remember anything
16 that Stolze and Priest were saying to you at that
17 time?

18 A. What they were saying? No.

19 Q. Do you remember what you were saying at
20 that time?

21 A. No.

22 Q. Have you had shoulder injuries or pain
23 in your shoulder prior to this incident at the
24 jail?

25 A. Yes.

1 Q. What part of your face?

2 A. My chin, and I had a scratch on my lip.

3 Q. Okay. Just a scratch, correct?

4 A. It popped up a little bit.

5 Q. Other than that, anything else you're
6 alleging as far as injuries to your face?

7 A. To my face?

8 Q. Yes, ma'am.

9 A. No.

10 Q. Okay. You also state that you sustained
11 injuries to your head. Can you tell me about
12 those?

13 A. Just this part.

14 Q. So the injuries to your head would be
15 the same as your face?

16 A. I believe so.

17 Q. Okay. You allege injuries to your hand;
18 is that correct?

19 A. Yes.

20 Q. Okay. Which hand?

21 A. Both hands.

22 Q. Okay. And in which way do you allege
23 your hands were injured?

24 A. From the cuffs being tight. From the
25 handcuffs being tight and behind my back.